
OFFICE OF THE SPECIAL RAPPORTEUR FOR FREEDOM OF EXPRESSION

Washington D.C., October 11th, 2016

CIDH/RELE/Art.18/10-2016/40

**REF: Information request regarding protests against the Dakota Access Pipeline in North Dakota
(Article 18 of the Statute of the IACHR)
United States of America**

Your Excellency,

I am pleased to address you in my capacity as the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR), pursuant Article 18 of the Statute of the IACHR.

I would like to bring to your Excellency's Government's attention information we received concerning allegations of the arrest of more than 60 protesters participating in demonstrations opposing the Dakota Access Pipeline in North Dakota, as well as the issuance of an arrest warrant on charges of criminal trespass against journalist Amy Goodman of *Democracy Now* after covering the pipeline protest.

According to the information available, hundreds of Native Americans from tribes across the country have gathered in North Dakota to support the Standing Rock Sioux Tribe's protests against the construction of an oil pipeline, known as the Dakota Access Pipeline, running across the watersheds of the Sioux Tribe's reservation. Protesters allege the pipeline could affect the reservation's drinking water. Since the protests began in August, more than 60 people have reportedly been arrested for participating in different kinds of protests. Civil society organizations have claimed law enforcement agents have only ensured the protection of the rights of the corporations involved and not those of the protesters.

Additionally, we received information about the decision of the Sheriff Department of Morton County, North Dakota, to issue an arrest warrant against journalist Amy Goodman, of *Democracy Now* on charges of criminal trespassing. On September 3, 2016, journalist Amy Goodman covered a demonstration against Dakota Access Pipeline, and filmed protesters as they entered the company's construction site in Cannon Ball, North Dakota, and encountered the company's security guards, who use dogs and pepper spray to disperse them.

In light of the above, I wish to bring to the attention of your Excellency's Government the report on The Use of Force adopted by the IACHR on 2015. In this report the IACHR stated that as a general rule police operations organized in the context of protests should be geared to guaranteeing the exercise of the right to participate in peaceful protests and to protecting the demonstrators and third persons who are present, and not containing or confronting the demonstrators. The Commission affirmed that "when a demonstration or protest leads to situations of violence it should be understood that the state was not capable of guaranteeing the exercise of this right. As already noted, the state's obligation is to ensure the processing of the demands and the underlying social and political conflicts so as to channel the claims".

**His Excellency John F. Kerry
Secretary of State
VIA His Excellency Kevin K. Sullivan
Interim Representative of the United States
to the Organization of American States
Washington, D.C.**

Also, the Joint Declaration on Violence against Journalists and Media Workers in the Context of Protests adopted in 2013 sets forth that “in the context of demonstrations and situations of social unrest, the work of journalists and media workers [...] is essential to keeping the public informed of the events .” Therefore, the authorities must grant journalists the highest level of assurance for them to “cover newsworthy events of interest to the public, such as the social protests.” In that regard, the Office of the Special Rapporteur has noted that “States have a duty to guarantee that journalists and communicators working during public demonstrations and situations of significant social unrest are not detained [...].”

The Office of the Special Rapporteur regularly seeks to clarify situations relating to its mandate that are brought to our attention. Since my Office is expected to report on the situation of freedom of expression of the countries in the region in our annual report, I would be grateful for your Excellency’s cooperation and respectfully request your observations, within forty-five days of the date of transmission of this communication, on the following matters:

1. The number of arrests of protesters who participated in the demonstrations against Dakota Access Pipeline and charges filed against them, if any and the current status of such charges
2. The charges filed against journalist Amy Goodman and the sanctions that could be imposed against her and the current status of the case
3. Any guidelines or policies the local law enforcement authorities have established to ensure that journalists are not arbitrarily detained or subjected to criminal prosecution for practicing journalism in the context of a protest
4. Any other relevant information.

I thank you in advance for the important collaboration of your Illustrious State in this matter. I take this opportunity to express to Your Excellency’s Government the assurances of my highest and most distinguished consideration.



Edison Lanza
Special Rapporteur for Freedom of Expression
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Organization of American States